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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,432	10/15/2003	Yoshiyuki Sasaki	R2184.0266/P266	3897
24998	7590	12/19/2008		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER GOMA, TAWFIK A	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 12/19/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/684,432

**Applicant(s)**

SASAKI, YOSHIYUKI

**Examiner**

TAWFIK GOMA

**Art Unit**

2627

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is in response to the RCE filed on 10/09/2008.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Mine (US 6243338).

Regarding claim 1, Mine discloses a data recording device, comprising: a recording unit that records data on a recording medium (fig. 1), said recording medium including a plurality of recorded regions each having data recorded by the recording unit and a plurality of unrecorded regions without any data recorded (col. 8 lines 47-58); and a recording state determination unit that stores recording state data for distinguishing the recorded regions from the unrecorded regions (col. 8 lines 59-63); wherein the recording unit includes ; a determination unit that determines whether a first region immediately prior to a second region is unrecorded by the recording state determination unit (col. 8 lines 47-58 and col. 9 lines 1-4), the data to be recorded in the recording medium being recorded in said second region (user data, fig. 9 and col. 8 lines 47-58); a dummy data recording unit that records dummy data in the first region when the determination unit determines that the first region is unrecorded, said dummy data enabling reading data in the second region (col. 8 lines 29-37); and a controller that manages the first region recorded with the dummy data such that the first region is distinguished as one of the unrecorded regions (col. 10 lines 55-67 through col. 11 lines 1-12, user WBBM, fig. 14a).

Regarding claim 2, Mine further discloses wherein the mark includes predetermined data used for generating a synchronization signal when reading data on the recording medium (col. 8 lines 34-36).

Regarding claim 3, Mine discloses wherein the mark includes one ECC block of predetermined data (fig. 11) when the recording medium is in compliance with a DVD+RW disk standard (col. 4 lines 48-50).

Regarding claim 4, Mine further discloses wherein the recording state determination unit stores the recording state data for each minimum recording region of the recording medium to determine a recording state of each of the minimum recording regions (col. 9 lines 63-67 through col. 10 lines 1-2).

Regarding claim 5, Mine further discloses wherein the recording state determination unit distinguishes the recorded region from the unrecorded region based on a bitmap including a plurality of one-bit recording state flags (fig. 11).

Regarding claim 6, Mine further discloses a recording-state flag storing unit configured to store the recording state flags (23, fig. 1, and col. 8 lines 64-66).

Regarding claim 7, Mine further discloses a recording state flag recording unit configured to record the recording state flags to a recording state flag recording region in the recording medium (WBBM, col. 8 lines 64-66).

Regarding claim 8, Mine further discloses wherein the recording state flag recording region is allocated in a Formatting Disk Control Block (FDCB) in a lead-in area of the recording medium (col. 8 lines 64-66), when the recording medium is in compliance with a DVD+RW disk standard (col. 4 lines 48-50).

Method claim 9 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claim 9, correspond to apparatus claim 1 and is rejected for the same reasons of anticipation as used above.

Furthermore, claims 10-12 are disclosed by Mine, which discloses a program (col. 5 lines 33-36), a storage medium for storing the program (col. 5 lines 33-36) and a recording system (fig. 1) for using the corresponding apparatus claimed in claim 1. Therefore claims 10-12, correspond to apparatus claim 1 and are rejected for the same reasons of anticipation as used above.

Claim 12 is drawn to the system corresponding to the apparatus of the same as claimed in claim 1. Claim 12, however recites the following additional limitations. Mine discloses a data recording system (fig. 1) comprising: a host computer (10, 21, fig. 1); and a data recording device (8, fig. 1).

### ***Response to Arguments***

Applicant's arguments filed 10/09/2006 have been fully considered but they are not persuasive. Applicant's arguments that the user bitmap of Mine does not label the blocks as either recorded or unrecorded are not persuasive because the user bitmap of Mine uses a bit "1" to signify an area that is recorded with user data, and a "0" for all other areas on the disc. The controller interprets the information in the user bitmap to mean that areas having a "1" are recorded and areas having a "0" are unrecorded (see col. 9 lines 39-43 and col. 10 lines 64-65). That is, the user bitmap, in and of itself does not signify that an area contains user data or finalization data as asserted by applicant. When the information of the user bitmap is combined

with the information of the WBBM, the system is capable of determining which areas are finalization information areas and which areas are user recorded areas (fig. 14a).

Applicant references column 10 lines 63-65 in order to show that the user bitmap is used to represent whether a block contains user data or finalization data. The relevant portions of Mine discloses that "In the user WBBM, a bit "1" is set to a block to which user data is written. Thus, a bit corresponding to a block to which finalization data is written is *still* 0." (emphasis added) This portion of the disclosure is referring to the fact that even data that is recorded as finalization data is *still* represented as unrecorded (or "0") in the user WBBM (see col. 9 lines 39-44). Mine uses another WBBM (lower table, figure 14A) in order to show where both user data and finalization data is recorded (both represented by "1" bits). The controller of Mine which is used to create the user WBBM "manages the first region recorded with dummy data such that the first region is distinguished as one of the unrecorded regions," by continuing to record a "0" bit which represents "unrecorded" even when finalization data (dummy data) is present in the region.

### ***Conclusion***

This is an RCE of applicant's earlier Application No. 10/684432. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

.Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAWFIK GOMA whose telephone number is (571)272-4206. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Joseph H. Feild/  
Supervisory Patent Examiner, Art Unit  
2627

/Tawfik Goma/  
Examiner, Art Unit 2627